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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,483	12/13/2005	David Blin	034296-602	3562
21839	7590	01/21/2009	EXAMINER	
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3633		ART UNIT		PAPER NUMBER
01/21/2009		NOTIFICATION DATE		DELIVERY MODE
				ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/540,483	BLIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	CHRISTINE T. CAJILIG	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 June 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 14-31 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 14-31 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 June 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/23/05, 12/13/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on 12/24/02. It is noted, however, that applicant has not filed a certified copy of the FR 02/16615 application as required by 35 U.S.C. 119(b).

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "lower rails" as noted in claims 22 and 31 and that the grid has a distance less than the thickness of the board must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “4b”. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: The specification lacks headings are required by 37 CFR 1.77(b). See below.  
Appropriate correction is required.

### ***Arrangement of the Specification***

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 15, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Saylor et al. (U.S. Patent No. 4,089,366).

Regarding claims 14 and 29, Saylor et al. discloses a partition comprising a plurality of studs (27) and a plurality of boards (24) on each side forming unit spaces between the studs and the plurality of boards, and a grid (23) in which the unit spaces delimited by the studs and the boards are divided into 200 to 1000 volumes (i.e. cells) per square meter by the grid which has a thickness less than a distance between the boards. In converting to volumes per square feet, the claim requires about 18.5 to 92.6 cells per square feet. In column 6, lines 3-12, Saylor discloses that each honeycomb cell (37) is sized between 1/2 to 2 inches. Accordingly, Saylor discloses providing approximately 45.8-733 cells per square feet. The area of each cell is approximated by using an area of a circle with the corresponding diameters. The method as recited in claim 29, of providing the structure set forth above, would be inherent in providing the above structure.

Regarding claims 15 and 30, Saylor et al. further discloses that the unit spaces are divided into 200 to 600 volumes per square meter or about 18.5 to 55.7 volumes per square feet. The method as recited in claim 30, of providing the structure set forth above, would be inherent in providing the above structure.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 21 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saylor et al. (U.S. Patent No. 4,089,366).

Regarding claim 21, Saylor et al. discloses the structure discussed above, but does not disclose that the boards are plaster boards. It would have been obvious to one having ordinary skill in the art at the time of invention to use plasterboards, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and would provide a more rigid facing. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Regarding claim 21, Saylor et al. discloses the structure discussed above, but does not disclose attaching the grid to rail at a top of the studs, and extending the grid to another rail, and it is fixed to the latter rail. However, it would have been obvious to further bond the upper and lower portions of the grid to the upper and lower rails (17, Col 3, Ln 32-36) just as sides are bonded to skins, to provide a more rigid, unitary structure.

Claim 14, and 16-,23, and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zinn (U.S. Patent No. 3,611,653) in view of Saylor et al. (U.S. Patent No. 4,089,366).

Regarding claims 14, 16, 20, 22, and 23, Zinn discloses a partition comprising a plurality of studs (21) and a plurality of boards (39) on each side forming unit spaces between the studs and the plurality of boards, and a sound insulating grid (45) which

has a thickness less than a distance between the boards, the grid not being glued to the boards, said partition further comprising upper and lower rails (13, 19) holding the studs and between which the grid is held.

Zinn does not disclose a grid in which the unit spaces delimited by the studs and the boards are divided into 200 to 1000 or 200 to 600 volumes per square meter. (In converting to volumes per square feet, the claim requires about 18.5 to 92.6 cells or 18.5 to 55.7 cells per square feet.)

Saylor et al. discloses a sound attenuating panel wherein a sound absorbing core grid has cells that have about 45.8 cells per square feet and wherein larger cell cavities allow for better sound attenuating capabilities at lower frequencies.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the structure of Zinn to have a honeycomb grid that has about 45.8 cells per square feet as taught by Saylor et al. to provide a sound attenuating core with improved performance when used in environments present loud, low frequency noises.

Regarding claims 17 and 25, Zinn modified by Saylor et al. further discloses that the grid has a thickness of 70 to 98% of the distance between the boards.

Regarding claims 18 and 26, Zinn modified by Saylor et al. further discloses that the grid is a grid in the form of a honeycomb.

Regarding claims 19 and 27, Zinn modified by Saylor et al. further discloses that the grid is made paper, but not of cardboard. It would have been obvious to one having ordinary skill in the art at the time of invention to use cardboard, since it has been held

to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and would allow for a use of a relatively inexpensive material. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Regarding claims 14 and 28, Zinn modified by Saylor et al. further discloses that the boards are plaster boards. See Col 2, Ln 58-61.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zinn modified by Saylor et al. as applied to claim 22 above, and further in view of Johnson (U.S. Patent No. 5,720,138).

Regarding claim 24, Zinn modified by Saylor et al. discloses the structure above, but does not disclose that upper and lower rails have pre-cut tabs which can be folded back inwards and which are inserted into the grid.

Johnson discloses that identical upper and lower rails comprising pre-cut tabs (48) that are foldable inwards may be employed to help locate positioning of vertical studs.

It would have been obvious to a person having ordinary skill in the art at the time of the applicant's invention to modify the structure of Zinn modified by Saylor to have pre-cut tabs in the upper and lower rails as taught by Johnson to facilitate positioning the studs during assembly. Consequently, the tabs would impale parts of the grid.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Oderthal (US 3496052) grid panel; Colson et al. (US 6345486) honeycomb filled panel; Fishel et al. (US 5172530) sound attenuation panel; Roy (US 4247583) filled panel; Umehara et al. (US 5749187) filled panel; Wirt et al. (US 3913702) cellular panel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. CAJILIG whose telephone number is (571)272-8143. The examiner can normally be reached on Monday - Thursday from 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. T. C./  
Examiner, Art Unit 3633

/Robert J Canfield/  
Supervisory Patent Examiner, Art Unit 3635